

## JOINT RESOLUTION.

[Senate J. R. No. 10 ] Joint Resolution to amend Section 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 16, 25, and 28, Article 5, of the Constitution of the State of Texas.

Be it resolved by the Legislature of the State of Texas: That sections 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 16, 25, and 28 of article 5 of the Constitution of the State of Texas be so amended as to hereafter read as follows:

## ARTICLE 5.—JUDICIAL DEPARTMENT.

Section 1. The judicial power of this State shall be vested in one Supreme Court, in Courts of Civil Appeals, in a Court of Criminal Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law. The Criminal District Court of Galveston and Harris Counties shall continue with the district jurisdiction, and organization now existing by law until otherwise provided by law. The Legislature may establish such other courts as it may deem necessary, and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

Section 2. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to the decision of a case. No person shall be eligible to the office of chief justice or associate justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this State, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court or such lawyer and judge together at least seven years. Said chief justice and associate justices shall be elected by the qualified voters of the State at a general election, shall hold their offices six years, or until their successors are elected and qualified, and shall each receive an annual salary of four thousand dollars until otherwise provided by law. In case of a vacancy in the office of Chief Justice of the Supreme Court the Governor shall fill the vacancy until the next general election for State officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the State. The judges of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution and until their successors are elected and qualified.

Section 3. The Supreme Court shall have appellate jurisdiction only except as herein specified, which shall be coextensive with the limits of the State. Its appellate jurisdiction shall extend to questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction, under such restrictions and regulations as the Legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law, or where a statute of the State is held void. The Supreme Court and the justices thereof shall have power to issue writs of habeas corpus as may be prescribed by law, and under such regulations as may be prescribed by law the said courts and the justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs as may be necessary to enforce its jurisdiction. The Legis-

lature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State. The Supreme Court shall also have power; upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The Supreme Court shall sit for the transaction of business from the first Monday in October of each year until the last Saturday of June in the next year, inclusive, at the capital of the State. The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter be required by law, and he may hold his office for four years, and shall be subject to removal by said court for good cause entered of record on the minutes of said court, who shall receive such compensation as the Legislature may provide.

Section 4. The Court of Criminal Appeals shall consist of three judges, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to a decision of said court; said judges shall have the same qualifications and receive the same salaries as the judges of the Supreme Court. They shall be elected by the qualified voters of the State at a general election, and shall hold their offices for a term of six years. In case of a vacancy in the office of a judge of the Court of Criminal Appeals the Governor shall fill such vacancy by appointment for the unexpired term. The judges of the Court of Appeals who may be in office at the time when this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution and laws as judges of the Court of Criminal Appeals.

Section 5. The Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the State in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law. The Court of Criminal Appeals and the judges thereof shall have the power to issue the writ of habeas corpus, and under such regulations as may be prescribed by law issue such writs as may be necessary to enforce its own jurisdiction. The Court of Criminal Appeals shall have power, upon affidavit or otherwise, to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction. The Court of Criminal Appeals shall sit for the transaction of business from the first Monday in October to the last Saturday of June in each year, at the State Capital and two other places (or the capital city) if the Legislature shall hereafter so provide. The Court of Criminal Appeals shall appoint a clerk for each place at which it may sit, and each clerk shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for four years unless sooner removed by the court for good cause, entered of record on the minutes of said court.

Section 6. The Legislature shall, as soon as practicable after the adoption of this amendment, divide the State into not less than two nor more than three supreme judicial districts, and thereafter into such additional districts as the increase of population and business may require, and shall establish a Court of Civil Appeals in each of said districts, which shall consist of a chief justice and two associate justices, who shall have the qualifications as herein prescribed for justices of the Supreme Court. Said Court of Civil Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts, which shall extend to all civil cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regu-

lations as may be prescribed by law: Provided, That the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Each of said Courts of Civil Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said justices shall be elected by the qualified voters of their respective districts, at a general election, for a term of six years, and shall receive for their services the sum of three thousand five hundred dollars per annum until otherwise provided by law. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law. Each Court of Civil Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court, which clerk shall receive such compensation as may be fixed by law. Until the organization of the Courts of Civil Appeals and Criminal Appeals, as herein provided for, the jurisdiction, power, and organization and location of the Supreme Court, the Court of Appeals, and the Commission of Appeals shall continue as they were before the adoption of this amendment. All civil cases which may be pending in the Court of Appeals shall, as soon as practicable after the organization of the Courts of Civil Appeals, be certified to and the records thereof transmitted to the proper Courts of Civil Appeals, to be decided by said courts. At the first session of the Supreme Court, the Court of Criminal Appeals, and such of the Courts of Civil Appeals which may be hereafter created under this article after the first election of the judges of such courts under this amendment, the terms of office of the judges of each court shall be divided into three classes, and the justices thereof shall draw for the different classes. Those who shall draw class No. 1 shall hold their offices two years, those drawing class No. 2 shall hold their offices for four years, and those who may draw class No. 3 shall hold their offices for six years from the date of their election and until their successors are elected and qualified; and thereafter each of the said judges shall hold his office for six years, as provided in this Constitution.

Section 7. The State shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a general election, a judge, who shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a judge of a court in this State for four years next preceding his election, who shall have resided in the district in which he was elected for two years next preceding his election, who shall reside in his district during his term of office, who shall hold his office for the period of four years, and shall receive for his services an annual salary of two thousand five hundred dollars, until otherwise changed by law. He shall hold the regular terms of his court at the county seat of each county in his district at least twice in each year in such manner as may be prescribed by law. The Legislature shall have power by general or special laws to authorize the holding of special terms of the court, or the holding of more than two terms in any county for the dispatch of business. The Legislature shall also provide for the holding of district court when the judge thereof is absent, or is from any cause disabled or disqualified from presiding. The district judges who may be in office when this amendment takes effect shall hold their offices until their respective terms shall expire under their present election or appointment.

Section 8. The District Court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the State

to recover penalties, forfeitures, and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration, or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections; and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and certiorari, and all writs necessary to enforce their jurisdiction. The District Court shall have appellate jurisdiction and general control in probate matters over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills; for settling the accounts of executors, administrators, and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by law. The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law.

Section 11. No judge shall sit in any case wherein he may be interested, or when either of the parties may be connected with him either by affinity or consanguinity within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes. When a judge of the district court is disqualified by any of the causes above stated, the parties may by consent appoint a proper person to try said case; or, upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the district judges may exchange districts or hold court for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied and vacancies in their offices filled as may be prescribed by law.

Section 12. All judges of courts of this State by virtue of their office, [shall] be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude "Against the peace and dignity of the State."

Section 16. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justice's Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200; and they shall have exclusive jurisdiction in all civil cases when the matter in contro-

versy shall exceed in value \$200 and not exceed \$500, exclusive of interest; and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500 and not exceed \$1000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justice's Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justice's Court there shall be a trial *de novo* in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original jurisdiction of civil appeals, in civil cases to the Court of Civil Appeals, and in such criminal cases to the Court of Criminal Appeals, with such exceptions and under such regulations as may be prescribed by law. The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons *non compos mentis*, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons; and to apprentice minors, as provided by law; and the County Court or judge thereof shall have power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court or any other court or tribunal inferior to said court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law; and in such counties appeals from Justices' Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law, and in all such cases an appeal shall lie from such District Court to the Court of Criminal Appeals. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may by consent appoint a proper person to try said case, or upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law.

Section 25. The Supreme Court shall have power to make and establish rules of procedure, not inconsistent with the laws of the State, for the government of said court and the other courts of this State, to expedite the dispatch of business therein.

Section 28. Vacancies in the office of judges of the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals and District Courts, shall be filled by the Governor until the next succeeding general election, and vacancies in the office of county judge and justices of the peace shall be filled by the Commissioners Court until the next general election for such offices.

Section 29. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of the State at an election to be held throughout the State on the second Tuesday in August, A. D. 1891, at which election all voters favoring said proposed amendment shall write or have printed on their ballots the words "For the amendment to article

5 of the Constitution, relating to the judiciary," and all those opposed shall write or have printed on their ballots the words "Against the amendment to article 5 of the Constitution, relating to the judiciary."

Section 30. The Governor of the State is hereby directed to issue the necessary proclamation for said election, and have the same published as required by the Constitution and existing laws of the State.

Approved April 28, 1891.

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#### CONCURRENT RESOLUTION.

Be it resolved by the House of Representatives, the Senate concurring: SECTION 1. That the Governor be and he is hereby requested to communicate with the superintendent of the United States census for the year 1890, and secure at the earliest moment the statistics of the population of Texas by counties, for the use of this Legislature.

Approved February 11, 1891.

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#### CONCURRENT RESOLUTION.

Concurrent Resolution authorizing the appointment of a committee to investigate the case of Jay Gould versus the International and Great Northern Railroad Company, in the District court of Smith county, and all the proceedings had and done in said cause, and in other causes in that and other courts of the State, affecting said railroad company and its receivers.

Whereas, Grave charges have been made in the public prints and by current reports which tend to bring in disrepute the courts of this State, touching the pending receivership of the International and Great Northern Railroad Company in the district court of Smith county, and it is due to the officers of said court and to the good name of the State that said reports and charges should be investigated, and, if false, exposed, therefore,

SECTION 1. Be it resolved by the House of Representatives (the Senate concurring): That a joint committee of the two houses to investigate said matters be appointed by the respective presiding officers, to consist of two senators and three representatives, whose duty it shall be to proceed immediately to investigate all matters connected with the receivership of the International and Great Northern Railroad Company, in the district court of Smith county, the origin of such receivership, the cause or causes of its duration, the operations and expenditures by the receivers, and all other suits, matters and things connected therewith or incidental thereto. Said committee may sit during the sessions of the Legislature or in vacation, and is hereby empowered to send for persons and papers, to administer oaths, and to hold their sessions at any convenient point in the State. All parties interested shall have the right to appear before the committee in person or by attorney, and shall have the right to have witnesses summoned and examined, and the investigation shall be with open doors. Upon the conclusion of their investigation, the joint committee hereby created shall report the result thereof, together with such conclusions of facts, and recommendations as to necessary legislation they may deem advisable, to their respective houses. If the Legislature be not in session, when such investigation is concluded,